

CRIMINAL COMPLAINT

STATE OF WISCONSIN

DA Case No. 2010ML015271

Plaintiff,

vs.

Complaining Witness:

Special Agent Ricardo Tijerino

Lewis, David E.
5114 W. Center Street
Milwaukee, WI 53210
DOB: 02/03/1971

Court Case No.

Defendant,

THE ABOVE NAMED COMPLAINING WITNESS BEING DULY SWORN, ON INFORMATION
AND BELIEF STATES THAT:

COUNT 1: ELECTION FRAUD - VOTING BY DISQUALIFIED PERSON

The above named defendant on November 4, 2008, at 222 North 33rd Street, in the City of Milwaukee, Milwaukee County, Wisconsin, did intentionally vote at an election when he did not have the necessary elector qualifications, to wit, he was a convicted felon who had not yet completed his term of probation, contrary to sec. 12.13(1)(a), 6.03(1)(b) and 12.60(1)(a), Wis. Stats.

COUNT 2: ELECTION FRAUD - PROVIDING FALSE INFORMATION TO ELECTION OFFICIAL

The above named defendant on November 4, 2008, at 222 North 33rd Street, in the City of Milwaukee, Milwaukee County, Wisconsin, did intentionally make a false statement to an election official, contrary to sec. 12.13(1)(b) and 12.60(1)(a), Wis. Stats.

AS TO EACH COUNT:

Upon conviction of these offenses, Class I Felonies, the defendant may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than three (3) years and six (6) months, or both, AS TO EACH COUNT

Complainant states that he is a Wisconsin Department of Justice Division of Criminal Investigation ("DCI") Special Agent, and bases this complaint upon the following information and belief:

Relevant Wisconsin Statutory Provisions

Wisconsin Statute § 12.13(1)(a) provides:

12.13(1) Whoever intentionally does any of the following violates this chapter:

(a) Votes at any election or meeting if that person does not have the necessary elector qualifications and residence requirements.

Wisconsin Statutes §§ 6.02(1) and 6.03(1)(b) provide:

6.02(1) Every U.S. citizen age 18 or older who has resided in an election district or ward for 10 days before any election where the citizen offers to vote is an eligible elector.

* * *

6.03(1) The following persons shall not be allowed to vote in any election and any attempt to vote shall be rejected:

* * *

(b) Any person convicted of treason, felony or bribery, unless the person's right to vote is restored through a pardon or under s. 304.078 (3).

Wisconsin Statute § 304.078(3) provides:

304.078(3) If a person is disqualified from voting under s. 6.03 (1) (b), his or her right to vote is restored when he or she completes the term of imprisonment or probation for the crime that led to the disqualification. The department or, if the person is sentenced to a county jail or house of correction, the jailer shall inform the person in writing at the time his or her right to vote is restored under this subsection.

Lewis Is a Felon

Based upon a review of circuit court records, complainant states the defendant David Lewis was convicted of two counts of the felony offense of Failure to Support Child (More than 120 days) in violation of Wis. Stat. § 948.22(2) on July 1, 2004, in Milwaukee County Case No. 2004CF001174. Complainant further states that on the same day, the defendant was sentenced to terms of 9 months in the House of Correction for each felony count. That sentence was stayed and the defendant was placed on 4 years probation for each felony count. Complainant states that based upon a review of these records as well as records from the Department of Corrections, Lewis was discharged from his probation on July 1, 2009. Because Lewis did not complete his felony supervision sentence until July 1, 2009, he was not eligible to vote on November 4, 2008. Certified copies of these documents have been requested and will be provided to the court when they are received.

The DOC Advised Lewis that, as a Felon, He Could Not Vote

DCI Special Agents Jeffrey Hale and Kenneth Peters interviewed State of Wisconsin Probation/Parole Agent Craig Posselt on March 8, 2010. According to the DOC-10 Rules of Community Supervision form, Posselt has been Lewis' supervision agent since July 2004. Posselt stated that he was Lewis' agent at the time of this incident on November 4, 2008.

Posselt told SAs Hale and Peters that he had a conversation with Lewis prior to the November 2008 election in which Posselt told Lewis that he could not vote. During the interview, SAs Hale and Peters noted numerous signs posted in the probation office advising probationers of the prohibition against voting.

Posselt produced a DOC-10 Rules of Community Supervision form from Lewis' file. The form was signed on July 30, 2004, by Lewis and by Posselt. Lewis' signature appears below the bolded text "**I have received a copy of these rules.**" Rule 13 on that form states:

You shall not, as a convicted felon, and until you have successfully completed the terms and conditions of your sentence, vote in any federal, state or local election as outlined in Wisconsin Statutes s. 6.03(1)(b).

Lewis Voted in the November 2008 Election

The information contained in this section of the complaint is based upon SAs Hale and Peters' review of records of the City of Milwaukee Election Commission and their interview with Lewis. SAs Hale and Peters have reviewed copies of election records for the City of Milwaukee, Aldermanic District 4, Ward 72, specifically a Voter Registration Application. SAs Hale and

Peters know that this record is held by the commission in the normal course of its business. SAs Hale and Peters know that electors for Ward 72 cast ballots on November 4, 2008, at Merrill Park Housing, 222 North 33rd Street, Milwaukee, Wisconsin.

SAs Hale and Peters state that according to the record entitled "Voter Registration Application", the defendant David Lewis registered to vote on November 4, 2008, and cast a ballot as Voter number 181 at Ward 72 on November 4, 2008.

SAs Hale and Peters spoke to the defendant on March 9, 2010. At that time, Defendant Lewis admitted that he did in fact register to vote and cast a ballot on November 4, 2008. Defendant Lewis also admitted he was on probation at the time of the November 2008 election, but thought that his case would be dropped if he paid his past due child support.

Lewis Misrepresented his Supervision Status to Poll Workers

SAs Hale and Peters report that they have examined a copy of the Voter Registration Application that was produced by the City Election Commission. SAs Hale and Peters report that the signature of "David Lewis" appears on this document. Immediately above Lewis's signature, the following appears:

I certify that I am a qualified elector, a U.S. citizen, a permanent (not a temporary) resident of Wisconsin, at least 18 years old, having resided at the above residential address for at least 10 days immediately proceeding this election, not currently serving a sentence including probation or parole for a felony conviction, and not otherwise disqualified from voting. I certify that all statements on this form are true and correct. If I have provided false information I may be subject to fine or imprisonment under State and Federal laws. If completed on election day: I further certify that I have not voted at this election.

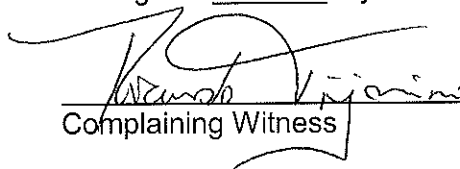
(Emphasis added). This form was presented to Election Official Jeff Polenske, as signified by Mr. Polenske's signature on the Voter Registration Application as the Election Day Registrar.

****End of Complaint****

Subscribed and sworn to before me and approved for filing this 22 day of June, 2010.



David W. Maas
Assistant Attorney General
State Bar No. 1025522



Complaining Witness

DWM/jo

-- Felony Complaint --